



DANIEL C. CEDERBORG
County Counsel

August 29, 2019

Mari Harren
Campaign Manager
Janz for Mayor
2037 W. Bullard Avenue, #250
Fresno, CA 93711

RE: Correspondence Dated August 27, 2019; Leave to Seek Public Office

Dear Ms. Harren:

I am in receipt of your letter dated August 27, 2019 regarding the work the Board of Supervisors is doing on a policy regarding public employees taking leave to run for public office. Unfortunately, you apparently have been very misinformed regarding the factual background around this proposal as well as its practical and legal effect.

The current proposal, which as you should know is still being worked on by the County and its bargaining units, does not target any individual. It is intended to ensure that employees working for the County are treated more uniformly throughout the County if they are seeking public office. It is also designed to assure the public that County employees are still devoting their time to their jobs while being paid by the public and do not receive any special benefit or support in seeking public office in comparison to individuals who do not have public employment. Nevertheless, the County's experience with Mr. Janz's candidacy last year did bring up some of the issues that pointed out the need for a more uniform and considered policy regarding seeking leave for office. The current County policy, which provides that some employees who seek public office have a right to their job back after running, applies only to County employees in the Classified service (Civil Service positions) and does not apply to attorneys and other non-classified positions at all.

As I am sure Mr. Janz has told you, at the time he ran for Congress last year he requested up to 60 days of leave off from his department head, the District Attorney. Current County policy does not allow a department to grant more than 30 days of leave, which is granted based on the needs of the particular office and at the discretion of the department head considering operational needs. At the time, I understand Mr. Janz was very upset that the current County policy did not allow for more time off. Now Mr. Janz appears to favor the existing County policy when it is convenient for his publicity needs. It is disingenuous that Mr. Janz is now complaining about any effort to formalize rules

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related to leave for employees seeking public office that would allow for the type of extended leave he initially sought for himself. I also know Mr. Janz is aware that the County was criticized for providing what appeared to some members of the public as special accommodations in his schedule while he attended to his campaign.

The Board of Supervisors, in working on a new policy to cover situations in which County employees seek major public office, was attempting to provide a comprehensive policy that would accomplish several goals : 1) Have a policy in place that treats employees consistently across the County when they are seeking public office; 2) Assure the public that County employees do not receive any special support or accommodation to run for public office compared to people who do not work for a public employer; 3) Assure that County employees were devoting themselves to their public jobs for the time they are being paid; and 4) Standardize the policy so that Department Heads had clear guidelines or rules pursuant to which leave to seek public office should be granted.

The proposed policy has gone through a few drafts and County employee unions were invited to meet and confer on the proposed policy starting in March of 2019. Four unions requested meetings, including the union representing the District Attorneys (the unit to which Mr. Janz belongs). SEIU was one of the unions that expressed concerns but did not follow up on concerns following the initial meeting nor after a re-noticing by the County in June of 2019 to go over proposed changes to the policy based on feedback from unions. It was not until the policy was actually before the Board of Supervisors at the August 6 Board meeting that SEIU objected. The Board pulled the item and directed staff to continue the meet and confer process. The District Attorneys' union, although they shared some concerns, did not object to the version that came to the Board in August from going forward. The County is currently in another round of meeting and conferring with its employee representatives. This current media push by Mr. Janz, which contains a great deal of misinformation, is not constructive to the development of a County policy that will be fair to all employees and the taxpayers.

The misinformation spread by Mr. Janz and his allies regarding the proposed policy includes claims such as that the proposed policy doesn't apply to department heads. While elected officials are beyond the authority of the Board of Supervisors in this type of leave policy, non-elected department heads were in fact covered by the version of the policy that was brought to the Board on August 6th. In addition, opponents of any leave policy change have asserted that the leave is without pay, and that employees will lose their health benefits. The draft policy specifically provides for use of accumulated leave time. As part of the meet and confer process it was confirmed by County Human Resources that such accumulated leave balances, if inadequate to cover the entire time off, could be used in a manner to provide continuation of benefits throughout the leave period. This change was made based on feedback in the meet and confer process with unions.

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I am, of course, very familiar with Labor Code §§1101 and 1102 and those statutes do not prohibit a charter county from adopting rules that are intended to regulate its employees when the rules do not prohibit running for office nor direct the political activity of its employees. The initially proposed policy was, and any policy which the County may eventually adopt will be in compliance with those statutes.

If you have any questions regarding the above, please feel free to contact me.

Very truly yours,

DANIEL C. CEDERBORG
County Counsel


By Daniel C. Cederborg,
County Counsel

cc: Nathan Magsig, Chairman, Fresno County Board of Supervisors
Jean Rousseau, Fresno County Administrative Officer
Paul Nerland, Director, Fresno County Department of Human Resources